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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/589,965

08/18/2006

Hiroyuki Sekine

129083

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EXAMINER

ROST, ANDREW J

ART UNIT

PAPER NUMBER

3753

NOTIFICATION DATE

DELIVERY MODE

05/12/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com

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<b>Office Action Summary</b>	<b>Application No.</b> 10/589,965	<b>Applicant(s)</b> SEKINE, HIROYUKI	
	<b>Examiner</b> Andrew J. Rost	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/7/2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the amendment filed 1/26/2010. No claims are currently amended. Claims 2, 3 and 6-11 have been canceled. No claims are newly added. Presently, claims 1, 4, 5, 12 and 13 are pending.

### ***Response to Arguments***

2. Applicant's arguments filed 1/26/2010 have been fully considered but they are not persuasive.

Applicant argues the teaching of the Gliss (2,513,795) reference with respect to the "a filter accuracy of the second filter means is lower than a filter accuracy of the first filter means" feature of claim 1. It is acknowledged that the Gliss reference discloses multiple filtering layers. It is considered that the multiple filtering layers include a first filtering layer (40) and a second filtering layer (passages 43 in plate 42) wherein the openings for fluid to pass through are larger in the second filtering layer than the openings in the first filtering layer (figure 3).

Applicant argues that the passages 43 do not function as a filter and cannot reasonably be considered as corresponding to the claimed second filter on page 3, first full paragraph. Additionally, applicant argues that the fine straining screen (40) strains out all oversized particles not caught in screen (50) so that the passages 43 would not filter any material. It is considered that the second filter means (passages 43) would filter any particles larger than the size of the openings (the size of openings 43) that may

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have gotten through the first filter means (40). Therefore, it is considered that the passages 43 in the plate 41 function as a filter.

Applicant argues the reason for the combination of the Gliss reference and the Ko et al. reference (5,733,441) on page 3, second full paragraph. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Gliss teaches having a second filter means (passages 43 in the plate 42) having a lower accuracy than a first filter means (screen 40) such that the second filter means provides openings downstream of the first filter means that provide some back pressure to support the first filter means while also supplying openings larger enough to ensure effective screening of the fluid flow through the first filter means (col. 2, lines 35-61).

Applicant argues the teaching of the Gliss reference in that the Gliss reference teaches additional filtering means (straining screen 50) on page 3, last paragraph. It is acknowledged that the Gliss reference does include additional screens. However, it is considered that the Gliss reference teaches a first filter means (40) and a second filter means (passages 43 in plate 42) wherein the second filter means is located

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downstream of the first filter means and that the second filter means has a lower accuracy than the first filter means.

3. Since the grounds of rejection are the same as the grounds of rejection of the Office action dated 12/8/2009, the instant Office action is made final.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 5, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (5,733,441) in view of Gliss (2,513,795).

Regarding claim 1, Ko et al. disclose a fluid supply device having a flexible portion (16a), a first filter (13) on the upstream side of the flexible portion, a second filter (18) downstream of the flexible portion, and a pressurizing means (pump 12) wherein the first filter is provided between the pressurizing means and the flexible portion (figure 2). Ko et al. do not expressly disclose the filter accuracy of the second filter to be lower than the filter accuracy of the first filter. However, Gliss teaches the use of a first filter means (40) upstream of a second filter means (passages 43 in backing plate 42) wherein the filter accuracy of the second filter means (43) is lower than the filter accuracy of the first filter means (40) (the openings through the filters are shown in

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figures 1 and 2) in order to create some back pressure within the line to support the first filter means (col. 2, lines 46-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the filter accuracy of the second filter to be lower than the filter accuracy of the first filter to the filters of the Ko et al. reference as taught by Gliss in order to create some back pressure within the line to support the first filter means (col. 2, lines 46-48).

In regards to claim 4, Ko et al. disclose the flexible portion to be a bellows pipe (col. 2, line 51).

In regards to claim 5, Ko et al. disclose the pressurizing means to be a fluid pump (air pump 12, col. 2, line 49).

Regarding claims 12 and 13, Ko et al. disclose a structure of a fluid supply system that is capable of being used in a fuel gas supply system. The recitation of "incorporating the fluid supply device according to claim 1 in a reaction gas supply system" (claim 12, lines 1-2) is an intended use recitation and given no patentable weight.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. R./  
Examiner, Art Unit 3753

/Robin O. Evans/  
Supervisory Patent Examiner, Art Unit 3753